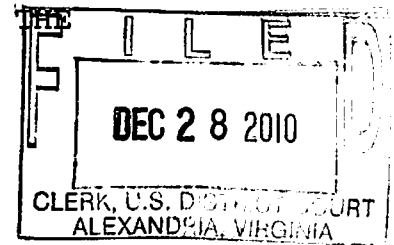


IN THE UNITED STATES DISTRICT COURT FOR  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division



VIRGINIA E-COMMERCE SOLUTIONS, LLC )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
EBAY, INC. and PAYPAL, INC. )  
 )  
Defendants. )

1:10cv1229 (LMB/IDD)

ORDER

Before the Court is plaintiff's Motion for Extension of Time to Oppose Defendants' Motion to Dismiss Complaint [Dkt. No. 26]. For the reasons stated below, that motion will be granted, and oral argument on defendants' Motion to Dismiss Complaint [Dkt. No. 15] will be rescheduled for Friday, January 14, 2011 at 10:00 A.M.

Defendants filed their Motion to Dismiss [the Original] Complaint in this civil action on December 6, 2010. On December 20, 2010, plaintiff filed a First Amended Complaint and a Motion for Extension of Time to Oppose Defendants' Motion to Dismiss. On December 27, 2010, defendants filed a Reply in Support of Defendants' Motion to Dismiss Complaint [Dkt. No. 30], which, in its substance, is actually an Amended Motion to Dismiss the First Amended Complaint.

As defendants noted in their Reply, the filing of an amended complaint under Fed. R. Civ. P. 15 does not necessarily require defendants to file a new motion to dismiss. Rather, "[i]f some of the [alleged] defects raised in the original motion remain in the

new pleading, the court simply may consider the motion as being addressed to the amended pleading." 6 Charles Alan Wright et al., Fed. Practice & Procedure § 1476 (2d ed. 1990). In this case, defendants are raising similar Fed. R. Civ. P. 12(b)(6) arguments regarding the factual and legal insufficiency of the First Amended Complaint as those that they originally raised in their Motion to Dismiss [the Original] Complaint. Accordingly, in the interest of an efficient resolution of this matter, the Court declines to find that defendants' pending Motion to Dismiss Complaint [Dkt. No. 15] is moot.

However, because plaintiff has not yet had an opportunity to respond to the new arguments raised in defendants' Reply regarding the alleged insufficiency of the First Amended Complaint, plaintiff's Motion for Extension of Time to Oppose Defendants' Motion to Dismiss Complaint [Dkt. No. 26] is GRANTED, and it is hereby

ORDERED that plaintiff file any response to defendants' arguments regarding its alleged failure to state a claim in the First Amended Complaint by January 5, 2011; and it is further

ORDERED that defendants file any further reply by January 10, 2011; and it is further

ORDERED that oral argument on defendants' Motion to Dismiss Complaint [Dkt. No. 15] be and is rescheduled from January 7,

2011 to Friday, January 14, 2011 at 10:00 A.M.

The Clerk is directed to forward copies of this Order to counsel of record.

Entered this 28<sup>th</sup> day of December, 2010.

Alexandria, Virginia

/s/ LMB  
Leonie M. Brinkema  
United States District Judge